

1 coach, right? He has the certification and
2 the education for that; is that right?

3 A. Yes. As long as he has certification in
4 elementary education or reading -- and/or
5 reading.

6 Q. And your testimony is you don't recall
7 Mr. Abrams approaching you about a position at
8 his school in the summer or late summer of
9 2004?

10 A. That's my position.

11 Q. Do you know that was one of the things that
12 Mr. Lowe complained about in his EEOC
13 complaint was not being hired for that
14 position?

15 A. I don't recall Mr. Abrams making a
16 recommendation for Mr. Lowe, no.

17 Q. Did you ever investigate to see, with
18 Mr. Abrams, if he made that recommendation to
19 somebody without your knowledge?

20 A. I asked Mr. Abrams if he made the
21 recommendation of Mr. Lowe. He told me that
22 he did not.

23 Q. Did he ever indicate to you he wanted to hire

1. Mr. Lowe for any positions at his school?

2. A. No, he did not. The only -- Mr. Abrams
3. approached me to my recall. I was at Capitol
4. Inn having lunch. Mr. Abrams and another
5. principal came out of Capitol Inn. He stopped
6. me and asked me, Mr. Barker, Mr. Lowe has been
7. by my school to inquire about a special
8. education position that I have available; is
9. he a viable candidate for that position. I
10. told him in no uncertain terms as long as he
11. meets the certification requirements for that
12. position, he is a viable candidate and he can
13. be selected and recommended for that
14. position. I told him I could not talk off the
15. cuff and determine whether or not he met those
16. certification requirements, that I would check
17. when I got back to school and that I would --
18. back to the office and that I would give him a
19. call.

20. I subsequently checked. I subsequently
21. inquired of Mr. Lowe if he had certification
22. along the lines of special education.

23. Mr. Lowe gave me a bunch of fast talk saying

1 that I have taken these courses and that these
2 courses meet the requirements. I can get an
3 emergency certification. Mr. Lowe, show me
4 proof that you have these courses that you say
5 that you've taken. Mr. Lowe presents to me a
6 transcript that does not have a single special
7 education heading on it. I'm told all the
8 time in my position that I qualify for this.
9 I'm told by applicants all the time that I can
10 teach math. I review their transcripts, and
11 they've got one single math course on it. Yet
12 they can teach math. Desire alone does not
13 qualify you to teach a particular position.

14 To this date Mr. Lowe has not shown me any
15 special education courses that he has taken by
16 way of a transcript that would qualify him to
17 teach special education. Sure he's given me a
18 lot of dialogue that says this will count for
19 that and this will count for that, but it's
20 his responsibility, not mine, to go to some
21 state department and say that these courses
22 are substitutable for these particular courses
23 and I can get certified in this particular

1 area. Until he shows me that, I'm not going
2 to step out on a line and allow him to assume
3 a position that I have high suspicion that he
4 is not certified for.

5 Q. Does the school system ever obtain emergency
6 certification for employees who don't have
7 their full certification in an area?

8 A. Yes, we do.

9 Q. In the summer of 2005, did you obtain any
10 emergency certification for teachers?

11 A. Yes, I did.

12 Q. Can you name any of those?

13 A. Can't name them specifically, but I can give
14 you the circumstances.

15 Q. Let me ask you this before you give me the
16 circumstances. Did they have teaching
17 certificates before you hired them with an
18 emergency certificate?

19 A. Not necessarily a teaching certificate, but
20 they would have a degree.

21 Q. Does the school hire people who don't have
22 education degrees but obtained emergency
23 teaching certificates while they work for a

1 timely manner for them to get into an
2 alternative program, but we're going to get
3 them by. The State is not going to honor it
4 if you just arbitrarily send in a person for a
5 an emergency certification based upon desire.
6 You can't do that.

7 Q. Did you check with anyone at the State
8 Department of Education to see if Mr. Lowe
9 would qualify -- his courses would qualify?

10 A. For special education?

11 Q. Emergency certificate.

12 A. No, I didn't, because the first rule of thumb
13 there is to have the proper departmental
14 indication by the courses that you take. When
15 you get a person's transcript, Bill, it's
16 going to say, SPE or SP, special education,
17 SPED. Every course that is considered as
18 special education is going to have some type
19 of indication that it is a special education
20 course.

21 Am I sitting here saying that Mr. Lowe
22 hasn't had any courses that would qualify for
23 that? No, I'm not. I'm sitting here saying

1 that Mr. Lowe has never presented to me any
2 evidence that any of the courses that he has
3 taken qualify for special education, which is
4 his responsibility.

5 Q. Were you aware that his work and his school
6 work on his doctorate degree was in special
7 education administration?

8 A. I'm aware that I had that conversation with
9 him, but I'm not aware of it by way of a
10 transcript.

11 Q. Is that the reason Mr. Lowe was not hired for
12 the job that Mr. Abrams had in special ed?

13 A. We never got to the recommendation stage
14 because when I called him back, I said
15 according to my research I cannot document
16 Mr. Lowe has had the special education courses
17 that he discussed with you and that he
18 ultimately discussed with me.

19 Q. Did Abrams say, I want to hire Mr. Lowe, or
20 did he put it just like, what do you know
21 about Mr. Lowe? How did he say that to you?

22 A. Basically what he asked of me was, if I'm
23 entertaining Mr. Lowe for a special education

1 position at my school, does he meet minimum
2 qualifications.

3 Q. That's the first time Abrams ever approached
4 you about a job for Mr. Lowe?

5 A. First time.

6 Q. Or as you're here as a representative of the
7 school, as far as the school system knows,
8 that's the first time Mr. Abrams approached
9 the school system about hiring Mr. Lowe?

10 A. This.

11 Q Now, what about Mr. Sikes?

12 A. Mr. Sikes had a similar conversation with me.
13 It was not -- I don't want you to think I'm at
14 every buffet in town, but he called me up and
15 asked me basically does Mr. Lowe -- I have a
16 vacancy in special education; Mr. Lowe has
17 been on my doorsteps with regard to that
18 position; does he meet the posted
19 qualifications for special education.

20 I had already done the research at that
21 particular time because I think that was
22 subsequent to Mr. Abrams asking me. And I
23 told him I do not have any documentation that

1 he is certified in special education.

2 Q. Did Mr. --

3 A. It may have been before, but I think it was
4 after.

5 Q. Did Mr. Sikes indicate that he wanted to hire
6 Mr. Lowe?

7 A. No. He just told me he had a couple of
8 vacancies -- I think he had two in special
9 education -- and that he was looking. And he
10 and I both were desperate for certified
11 applicants at that particular time because
12 there was a shortage for special education
13 teachers the entire summer going into the
14 school year after the school year had
15 started. So there would have been absolutely
16 no reason to deny him the right to hire him if
17 we could get him certified. It would have
18 been a glorious moment in my cap to find
19 someone whom I could get certified to place in
20 those positions. We couldn't do it.

21 Q. Did you ever say anything discouraging to
22 Abrams or Sikes about Mr. Lowe?

23 A. No.

1 Q. Nothing disparaging about him?

2 A. No.

3 Q. Nothing to intimate that you didn't think he
4 was a good candidate for them to hire?

5 A. Absolutely not. The only subsequent
6 discussion that I had with Mr. Sikes was -- He
7 said, Mr. Barker, who is this man; he is on my
8 doorsteps every day; you have told me that he
9 does not meet the qualifications for special
10 education. I just said he is an aspiring
11 teacher. He's a teacher without a job, and
12 he's looking for a job, to kind of appease the
13 process with him.

14 Q. Did Sikes talk to you about Lowe teaching
15 science or English or any other courses?

16 A. Not to my knowledge. Special ed is all we
17 talked about.

18 Q. Did he talk to you about Lowe applying for an
19 assistant principal or administrative
20 assistant's position?

21 A. Not to my knowledge.

22 Q. Did you ever become aware of a Ms. Starks that
23 wanted to hire Mr. Lowe?

1 A. I know Ms. Starks. I'm not aware that she
2 wanted to hire Mr. Lowe.

3 Q. She never expressed to you any desire to hire
4 him?

5 A. Ms. Starks, if I recall correctly, recommended
6 three individuals consistent with the pattern
7 that I outlined to you earlier for her
8 administrative assistant's position. Among
9 those three individuals was Mr. Marvin Lowe,
10 but not Mr. Melvin Lowe.

11 Q. And who was chosen for the position?

12 A. A science teacher, black male, from a middle
13 school magnet school in the district, Floyd
14 Middle Magnet School.

15 Q. Were you aware of a position that was filled
16 by a lady named Karen Vann that Mr. Lowe
17 included in his concerns in his EEOC charge?

18 A. I know Karen Vann and the position that she
19 ultimately filled with the school district.

20 Q. Was that position advertised?

21 A. Yes, it was.

22 Q. And she's a white female?

23 A. That's correct.

1 Melvin Lowe has applied for that they had to
2 hire a woman?

3 A. No, sir.

4 Q. You would not say that?

5 A. No..

6 Q. That would be inappropriate, would it not?

7 A. It would be, definitely.

8 Q. That you had to hire a woman --

9 A. No.

10 Q. -- as opposed to -- based on their gender?

11 A. No, definitely not.

12 Q. During the '04-'05 years, did you have any
13 conversations regarding Mr. Lowe?

14 A. '04-'05?

15 Q. Second year at Daisy Lawrence.

16 A. No.

17 Q. Did you have any conversations with Mr. Lowe
18 during that time?

19 A. I don't recall any other than, you know, maybe
20 during the time when he was -- Well, I just
21 don't recall any.

22 Q. When his leave requests were denied, were
23 those -- was that after you were aware of his

1 EEOC complaint?

2 A. I don't think so.

3 Q. And what was the reason that his leave was
4 denied?

5 A. Mr. Lowe is not lacking in ambition at all.
6 He is fully confident in his abilities and the
7 things that he wants to do, whether for the
8 school district, within the school district.
9 He submitted a detached duty request to
10 represent the school district in a
11 conference -- I think if I recall in
12 California -- related to our reading program.

13 Well, we had all kind of ambassadors for
14 our reading program that were further up the
15 chain that Mr. Lowe. Mr. Lowe was a
16 teacher/tutor. He had no official capacity,
17 even as a reading coach, within the school
18 district. And we had all kind of individuals
19 who had the proper credentials. So I inquired
20 of his -- the person who would have been
21 giving that authority, Mr. Looney. I said,
22 Mr. Looney, I have a request from Mr. Lowe to
23 go out and represent the school district and

1 make a presentation about our reading program
2 in a workshop-type setting; did you authorize
3 this.

4 Mr. Looney looked at me and gave me a
5 facetious laugh. He said no, I did not
6 authorize this. I turned down that
7 recommendation based upon my conversation with
8 Mr. Looney. I don't know what anybody else
9 told Melvin Lowe. I know that I had that
10 conversation with Mr. Looney, and I know what
11 his response was.

12 Q. Are you saying that Mr. Looney said that he
13 was against Melvin Lowe going to this
14 convention?

15 A. He didn't say he was against him. He laughed
16 at me and said, no, I did not authorize him to
17 go out and represent Montgomery Public
18 Schools' reading program.

19 Q. Did Mr. Looney ever come to you and ask that
20 you let Melvin Lowe go to this program?

21 A. No, he did not.

22 Q. Or tried to abdicate Melvin Lowe going to the
23 program?

1 A. No, he did not.

2 Q. Did he ever say he was against Melvin Lowe
3 going to the program?

4 A. He did not say. He inferred that it was
5 absurd that Mr. Lowe was going to go out and
6 represent the school district just by his body
7 language when he laughed at me and said, of
8 course I did not.

9 Q. The principal at the school approved this
10 leave on October 18, and then it was denied by
11 you November 5th.

12 A. Sounds reasonable.

13 Q. What was the reason on the delay of the
14 denial?

15 A. It's -- Generally most of the requests for
16 detached duty would go through one of the
17 specialists in my office, Carolyn Hicks. If
18 there was one that was of some concern -- and
19 there were often ones of concern -- she would
20 bring it to my attention and say, well,
21 Mr. Barker, what are your feelings about this
22 particular request. She just recently came to
23 me on one that is totally dissimilar, but the

1 reason -- the line of logic goes to say --
2 This is what happens, Bill, and you're not
3 naive enough to not identify with this.

4 A principal, say, for example, will get
5 ready to go to the National Association of
6 School Principals in Las Vegas. Three days
7 later I'm going to get a request for her
8 spouse or his spouse in the school district to
9 go to that same conference, whether they are a
10 school principal or not. I'm forever on the
11 alert to little things such as that to make
12 sure that we're not funding vacations for our
13 employees. That's my responsibility. I have
14 to look at those things to see if they make
15 walking-around sense before I sign my name to
16 them and say that this -- I approve this
17 particular request.

18 Well, in my mind, it made no sense for a
19 person who was not associated with the reading
20 program of the school district to be making a
21 presentation on behalf of the school
22 district. It just didn't make sense.

23 Q. Were you aware of the posting on the school's

1 who the superintendent gave his approval to
2 go. I could only assume Mr. Lowe's name was
3 not on that submittance that was made by MCEA
4 or AEA and as a consequence -- I can think of
5 no other reason why it would have been denied.

6 Q. If Mr. Looney had been for this National
7 Reform Conference, if he had said, yeah,
8 I think Melvin Lowe is the guy to go to that,
9 would you have approved that leave?

10 A. Mr. Looney's position is on a parallel with
11 mine with the school district. I would have
12 respected him making that particular
13 recommendation and allowed him to go because
14 then the responsibility of accountability
15 would have rested with Mr. Looney, not with
16 me.

17 (Off-the-record discussion.)

18 Q. Let me ask you one other question. Do you
19 know if Mr. Looney would have written Mr. Lowe
20 and said, I've exhausted everything I could do
21 to help with this matter; you can cancel your
22 trip or you can take sick leave? Do you know
23 why he would have written him that?

1 A. I have no idea why he would have.

2 Q. That's not consistent with what he related to
3 you, is it?

4 MS. CARTER: Object to form.

5 A. That's not his reaction to me. His reaction
6 to me, as I said before, was to laugh and say,
7 of course I did not authorize this. But let
8 me put it this way: I'm not accusing
9 Mr. Looney of anything. It is not uncommon
10 for principals, supervisors in the school
11 district, to make the bad guy to be HR. They
12 just don't want to face personnel with the
13 fact that this is my decision on it. They'll
14 say, well, I submitted this to HR and HR says
15 this or says that. It's not uncommon. I'm
16 not saying that Mike would have wimped out
17 that way. He probably would have gone ahead
18 and told him if he did not, but I know what my
19 conversation was with him and I've testified
20 to it accurately.

21 MR. PATTY: We can take a break.

22 (Brief recess.)

23 Q. (Continuing by Mr. Patty) Do you recall if a

1 emergency certification. Now, under what
2 context, I have no idea. I'm not privy to the
3 conversation between the two of them.

4 Q. Would there be documents that would show when
5 Daisy Lawrence was going to be closed, when
6 that decision was made to close it?

7 A. I don't know that there will be documents
8 officially, but it would have had to have been
9 presented to the board, the proposal for
10 closing during the spring of '05, somewhere
11 between January of '05 and the spring of '05.

12 Q. Do you recall the meeting -- The
13 superintendent testified about a meeting that
14 was held with all the faculty at Daisy
15 Lawrence about the closing and how different
16 folks would get moved to different positions.
17 Do you remember that?

18 A. I recall, yes.

19 Q. What do you recall of that meeting? What was
20 said?

21 A. The superintendent and I visited the campus to
22 allay any concerns and fears that the faculty
23 and staff may have had there as to what was

1 going to transpire with the closing of Daisy
2 Lawrence. We spoke to the faculty and staff.
3 And to my recall and to my later clarification
4 with Mr. Lowe, we assured the faculty and
5 staff that all tenured persons would be placed
6 in positions to their liking if they were
7 available. We were going to make every
8 concerted effort to place them in a comparable
9 position to the one which they held there at
10 Daisy Lawrence. All non-tenured persons --
11 there were three of whom -- were given no
12 assurances other than they could apply for
13 positions which came open in the district and
14 that they would be given due consideration for
15 those positions. I later reaffirmed that
16 position in writing by way of e-mail to
17 Mr. Lowe at his request roughly a month or so
18 later when he inquired -- I guess he was
19 growing some concern about whether or not he
20 was going to land a position, although it was
21 rather early on. I think it was in June. I
22 reaffirmed that position that I could give him
23 no assurances with regard to placement as I

1 could give no non-tenured personnel, but that
2 I encouraged him to keep applying and that
3 surely something would come about before the
4 school year -- the next school year started.
5 And that was the extent of it. That's what I
6 recall about it.

7 Q. Did the other two non-tenured teachers get
8 positions with the school?

9 A. They ultimately did. Yes, they did.

10 Q. When did they get positions?

11 A. Bill, to be absolutely honest with you, when
12 this came up, I checked. All it says is
13 August of that subsequent school year. If
14 they had been hired in July, it would say
15 August. If they had been hired in June, it
16 would say August. If they had been hired in
17 August, it would say August. So at some
18 subsequent point, they interviewed for
19 teaching positions at other schools and
20 received them. One of them was a credentialed
21 special education teacher. And as I told you,
22 there was a supply/demand situation that
23 favored them drastically. The other was an

1 elementary ed teacher who interviewed with
2 some school and got on with them. But to tie
3 it down to exactly when, I can't say when.

4 Q. Were there any -- All the tenured teachers got
5 positions, right?

6 A. All the tenured persons got positions, the
7 last of whom was the guidance counselor that
8 was referred to earlier by the superintendent.

9 Q. And the principal, who was a contract
10 principal, got a position?

11 A. That's correct.

12 Q. What about classified employees?

13 A. I would have to check to make sure in that
14 case. I assume -- As best I recall, there was
15 a building custodian who was ultimately picked
16 up by another of the elementary schools after
17 having done a temporary stint for a person who
18 was on sick leave at central office, because
19 she used to keep that building over there
20 very, very clean, immaculately clean, and she
21 interviewed for a position -- an interim
22 position. She was brought on on an interim
23 basis, and then she was hired well after the

11 MR. PATTY: Mostly it looks like
12 it's certifications.

13 MS. CARTER: So we can pull the aps
14 and copy those too.

15 Q. I showed Dr. Purcell an e-mail she received on
16 June 22, 2005. It's Exhibit 5. Do you recall
17 seeing that document?

18 A. Yes. This looks very much like the document
19 that was shared with me by Dr. Purcell.

20 0. What did you do after receiving that document?

21 A. There were some rather serious allegations in
22 there with regard to what Mr. Lowe felt was
23 things that had been said to him by Dr. Owens

1 and by various people, and all of them were
2 alluding to the fact that he thought that
3 there was evidently some block of his
4 assignments by the HR office. And so since we
5 had just finished the EEOC complaint or the
6 EEOC complaint may still have been unresolved
7 at that particular point, I remember getting
8 this memo, calling Elizabeth Carter here
9 and --

10 MS. CARTER: Don't go into anything
11 we --

12 MR. PATTY: Yeah, don't --

13 MS. CARTER: Once it was referred to
14 me, you don't go past that.

15 A. But I did not want to take a chance that this
16 could impact anything else, so I called her.

17 Q. Don't tell me what you talked about with
18 Elizabeth, but I would like to know if you
19 talked to Owens about it.

20 A. At that particular time, I did not because I
21 knew the allegations on there were totally out
22 of kilter. The things that he said that
23 Dr. Owens told to him, I knew that I had had

1 no conversation with Dr. Owens -- I haven't
2 discussed Mr. Lowe in an unprofessional manner
3 with Dr. Owens at any time. So I knew that
4 this was totally unfounded. Not saying that
5 it -- the conversation did not happen between
6 the two of them, but I didn't follow up on it
7 because I knew there was no possibility for it
8 to be true.

9 Q. So did you interview anybody with regard to
10 that Exhibit 5?

11 A. I didn't interview anyone. I talked back with
12 the superintendent. My comments to the
13 superintendent were, have you looked at the
14 structure of this e-mail. It makes a mighty
15 bad point for a professional in the field to
16 e-mail the superintendent of education a
17 document of this nature that is barely
18 coherent, and that same person is asking me to
19 allow them to go out and represent the school
20 district and you send a document of this
21 nature to the superintendent of education whom
22 you would think you would be on your Ps and
23 Qs. I remember making those comments to her.

1 Q. You were pretty mad about that document?

2 A. No, sir, not mad about it. Disappointed that
3 Mr. Lowe, who had proven himself to be a
4 reputable teacher in the school district,
5 would take such carelessness in sending this
6 type of documentation to the superintendent of
7 education. I cannot make a case for him when
8 he is sending that. If you have taken the
9 time to read it, it's barely coherent. It's
10 despicable in terms of a professional
11 corresponding with the superintendent.

12 Q. Was Carla Winborne told to go -- I'm jumping
13 around a little bit. Was she told to go tell
14 Dr. Owens that he could not hire Mr. Lowe?

15 A. Carla Winborne consulted me, and I told her
16 basically the process that was going on. I
17 told her that I had asked Connie Mizell to get
18 Dr. Lowe some additional applicants as it
19 related to the reading coach position and that
20 she could not accept his recommendation as a
21 reading coach until that issue was resolved.
22 So her response I assume was, I cannot hire
23 Mr. Lowe at this particular time, because I

1 job for Dr. Owens. It was just --

2 Q. Before --

3 A. Go ahead. I'm sorry.

4 Q. No. Before --

5 MS. CARTER: You can finish your
6 answer.

7 Q. Yeah. I would -- Before June 22, 2005, did
8 Dr. Owens say to you or your office that he
9 would like to get y'all to give Mr. Lowe
10 something, some kind of job?

11 A. Not to my recall. He didn't make the
12 statement to me.

13 Q. Did Dr. Owens or did you ever say anything to
14 Dr. Owens or did anyone in your presence in
15 administration say anything to Dr. Owens that
16 the board was getting back at Melvin Lowe
17 because he filed his lawsuit?

18 A. Definitely not.

19 (Plaintiff's Exhibit 15 marked for
20 identification.)

21 Q. What is Exhibit 15?

22 A. Exhibit 15? This is the results of our having
23 done -- when I say our -- HR having done

1 A. No, I do not.

2 Q. How about Janice Harvey?

3 A. No, I do not.

4 MS. CARTER: What was the first name
5 you said, Bill? Those are not
6 names I've heard.

7 MR. PATTY: Pat Carnegie.

8 Q. And you had no conversations with the
9 superintendent of Bullock County about
10 Mr. Lowe?

11 A. Other than to clear the fact when he was
12 considering a return to the school district
13 that we would not be looked at as tampering.

14 Q. That was with the assistant superintendent?

15 A. Right.

16 Q. But nothing with the superintendent?

17 A. No, nothing with the superintendent. That's
18 correct.

19 Q. And you never told Abrams or Owens that they
20 need to hire women?

21 A. No.

22 Q. Were there any problems with Mr. Owens' work
23 or did you get any complaints regarding his

1 16, and then I'll refer to the individual
2 document by its Bates number.

3 (Plaintiff's Exhibit 16 marked for
4 identification.)

5 Q. What I'm trying to do is understand which
6 announcements and positions these go with.

7 Let me show you the first one, which is
8 Bates numbered 1508. And it looks like the
9 way I'm reading this is the successful
10 candidate has got their certificate attached
11 to the announcement, which is Bates number
12 1509. Can you tell me what position that goes
13 with?

14 A. Position of reading coaches, and this is May
15 9, 2005. So I would assume that this was for
16 positions of reading coaches at various school
17 sites throughout the school district entering
18 the summer of 2005, positions that might come
19 open.

20 Q. Would that have covered the -- Ms. Freeney is
21 the person's name attached. Does that
22 announcement cover the position with
23 Dr. Owens?

1 A. It does. It would have.

2 Q. Now let's look at Bates number 1319. It says
3 applications accepted for position of
4 administrative assistants at Crump Elementary
5 and Brewbaker, and that's August 18, 2003.
6 And then there's attached two people, Rhonda
7 Oates-Tucker and Ms. Crawford.

8 Do you remember if those are white
9 females? Black females?

10 A. Both of those are black females.

11 Q. Do you know -- I'll tell you what I'm going to
12 do. I don't know if I necessarily want to
13 mark this, but it may be helpful if you can --

14 MS. CARTER: Are you looking at the
15 list of teachers?

16 MR. PATTY: Right.

17 MS. CARTER: Let me tell you how we
18 put this together. We took
19 y'all's list from the corporate
20 rep deposition notice, and then I
21 added one that I thought y'all
22 had missed and I added the four
23 from this past summer. So if he

1 Q. Let's look at Bates number 1323.

2 A. Educational specialist, office of curriculum
3 and instruction. That was dated June 4 of
4 2004. Educational specialist, June 4, 2004,
5 that's 16-H.

6 Q. Would Mr. Lowe have the educational and
7 certification qualifications to be an
8 educational specialist?

9 A. Generally the posted notice would read
10 something like at least three years successful
11 teaching experience and endorsement in
12 administration and supervision. That is to
13 attract a full scale of applicants. Ed
14 specialist positions in many instances have
15 gone to individuals who have prior
16 administrative certification -- I mean
17 administrative experience, but we leave it
18 open so that we might get a diamond in the
19 rough.

20 Q. So he meets the minimum --

21 A. Yes, he does.

22 Q. Let's go on, then.

23 Connie Mizell, white female?

1 A. White female.

2 Q. The next document is 1506.

3 A. That is May of 2005, special education
4 teachers, so that's relative to the --

5 MS. CARTER: It's not on that list.

6 Those are the ones I added.

7 A. That is basically the special education
8 teacher positions that you inquired about at
9 Robert E. Lee High School -- we're still under
10 that -- and at McKee Junior High School.

11 Q. There's one --

12 MR. PATTY: It looks like there's
13 only one certification with
14 that.

15 MS. CARTER: There is.

16 A. This is Carlos Cherry. This was McKee Junior
17 High School, so that probably -- This is the
18 one that we put in here for McKee. I'm sure
19 we have another one in there for --

20 MS. CARTER: For Mr. Abrams.

21 A. This is McKee Junior High School. That's the
22 individual who filled that position, black
23 male.

1 Q. Bates number 1329.

2 A. Educational technology professional
3 development program coordinator, June of 2003.

4 MS. CARTER: It's July of --

5 A. Yeah, that's July of 2003. This has to be it
6 here, the September 1 position that he alluded
7 to as 2003 educational specialist and
8 educational technology professional
9 development program coordinator and Title I
10 school-wide instructional -- There's several
11 on here. That's 16-B.

12 Q. Is it Kevin Todd Culpepper?

13 A. Uh-huh (positive response).

14 Q. White male? Black male?

15 A. White male.

16 Q. Angela Mangum?

17 A. Angela Mangum, black female.

18 Q. Will there be -- Just so I understand
19 document-wise, will there be anything that
20 will show -- I think you've talked about this
21 a little bit. Will there be anything to show
22 how their interviews went for these different
23 positions, who the three top candidates were,

1 number 1362.

2 A. School-wide instructional assistants,
3 instructional assistants -- Yeah, all of
4 those.

5 Q. Would an instructional assistant position be
6 one that Mr. Lowe would have the
7 qualifications of education certification for?

8 A. Yes. I can give you the race and -- I
9 recognize --

10 Q. Go ahead.

11 A. Lovell Seals is a black male. Darryl
12 Washington is a black male. Deidra McRay is a
13 black female. Virginia Browder is a black
14 female. Mona Green is a black female. Tara
15 Carr is a black female. Dierdra Ramsey is a
16 black female. Barbara Sankey is a black
17 female, and Orlean Baldwin, black female.

18 Anissha Officer, black female; Patrick Nelson,
19 black male; Lakisha Stokes, black female;
20 Tamara Winston, black female.

21 0 Now, looking at Bates 1363 --

22 A. Administrative assistant, specifically at
23 Robert E. Lee High School.

1 MS. CARTER: When you read off
2 documents, speak more clearly
3 because she's trying to take it
4 down.

5 A. Administrative assistant at Robert E. Lee,
6 16-C. This person who received the position
7 was Gloria Odutola, who is a black female.

8 Q. I'll show you Bates number 1367.

9 A. Educational specialist, office of student and
10 community services, September 10, 2003.
11 That's 16-D, and the person receiving that
12 particular position was Susan Terrell, which
13 is a white female.

14 Q. I'll show you Bates number 1371.

15 A. Positions of elementary teachers at Brewbaker
16 Intermediate and McKee Elementary Schools,
17 September 15, 2003. That would be 16-E and
18 16-F, and the individuals who received those
19 were Jennifer Turner, and I'm not sure whether
20 she's black or white, Suzie Prater, who is a
21 black female. I'm not absolutely sure on
22 Jennifer Turner.

23 Q. I'll show you Bates number 1374. There may be

1 some stuff that --

2 A. Administrative assistant and assistant
3 principals as positions become available for
4 the 2004-2005 school year, and this is to
5 begin to accumulate all interested parties in
6 administrative placements during the late or
7 the early spring of 2004. This is dated
8 February 25, 2004, and this is indicative that
9 the position at Thelma Morris -- Let me see
10 which one that may be. Administrative
11 assistant at TS Morris, that's 16-O. And
12 let's see who the other one is. That's the
13 one. That's just one, 16-O, administrative
14 assistant at TS Morris, who is a black female.

15 Q. I've got a stack here that goes 1378 through
16 1446 -- 7 -- 1447. I don't know if those go
17 with the ones you just had there or not.

18 A. Let's see. These are probably administrative
19 assistants throughout the school district. G
20 up here. So she's probably included in --
21 That's the one specifically for TS Morris, but
22 all of these are 16-G, the administrative
23 assistants position at -- beginning May 14,

1 2004, and any and all administrative positions
2 that were available. And these are Hosea
3 Addison who went to Lanier Academic Magnet
4 Program, black male; Exzealia Baptiste, who
5 went to the alternative education program at
6 Fews, black female; Jeri Brown, who went to
7 Robert E. Lee High School, white female;
8 Rodrick James who was hired at Chisholm
9 Elementary School, black male; Emily Little,
10 who was hired at -- Let's see if the school is
11 on here. I'm not absolutely sure on the
12 school she was placed. She's a white female,
13 Emily Little.

14 Ronald Ashley, black male, hired as the
15 administrative assistant at Booker T.
16 Washington High School; Bobby Lowe, black
17 male, hired at Floyd Elementary School; Mary
18 Markham, black female, another one that I'm
19 not absolutely sure on the school so I need to
20 make a note and let you know where she was.

21 Mary Norman, who was hired as an
22 administrative assistant at Robert E. Lee High
23 School and ultimately transferred to Floyd

1 Middle School, white female, in both
2 capacities as the administrative assistant or
3 the assistant principal. Shanetha Paterson,
4 black female, was hired at Nixon Elementary
5 School as the assistant principal; Antoine
6 Richardson, black male, hired at Robert E. Lee
7 High School as administrative assistant;
8 Ferlisi Ross, black female -- Ferlisa Ross,
9 black female, hired at Robert E. Lee High
10 School as the assistant principal, before that
11 hired as administrative assistant at Lanier
12 High School. Both of them would probably fall
13 within this time frame.

14 Durwood Wilson, black male, hired as the
15 administrative assistant at Davis Elementary
16 School and ultimately transferred to Brewbaker
17 Junior High School. Dionne Woody, black
18 female. I think she was hired at Nixon
19 Elementary School to replace Shanetha Paterson
20 when she left, black female. And Sonya Floyd,
21 the black female who was hired for the
22 assistant position -- administrative
23 assistant's position at McKee Junior High

1 School. I know my people.

2 Q. Did you say Sonya Floyd was a black female?

3 A. Black female.

4 Q. Bates number 1448.

5 A. June 4, 2004, educational specialist, office
6 of curriculum and instruction. June 4, 2004
7 educational specialist, that's 16-H. And the
8 person who received it was Thomas Toleston,
9 black male.

10 Q. 1450, it looks like at the bottom it says the
11 position was not filled.

12 A. Right. This is Title I program evaluator, and
13 it went unfilled. It was posted and we got
14 applicants, and then the funding for it fell
15 through so it was not filled.

16 Q. 1452.

17 A. Title I teacher/tutor, skills lab at Houston
18 Hills Junior High School. That was 16-J, and
19 the person who filled it was Essie Baker,
20 black female.

21 Q. Would it be unusual for a position to be
22 filled without the principal having any input
23 into who is being selected?

1 A. No. We try diligently not to do that.

2 Q. So that would be out of the ordinary if a
3 position was filled before a principal was
4 consulted about who was going to have that
5 position?

6 A. Generally that is, yes.

7 Q. Let me show you Bates 1454.

8 A. 1454 is two-system reading specialist, office
9 of curriculum and instruction, June 25, 2004.
10 That's 16-K, and the individuals were Karen
11 Vann -- that's the one I alluded to in earlier
12 testimony -- Karen Vann, white female, and
13 Gloria Odutola, black female.

14 Q. The recommendations file you keep, will it
15 show why someone was picked?

16 A. Usually there's a rubric if there's a
17 committee that -- and they will generally rate
18 that individual based on the questions.
19 That's why we're so insistent that the same
20 questions are asked of everybody so they can
21 be rated. And there's --

22 Q. Do y'all keep the -- They ask the questions
23 and they take notes as to what the response is

1 I might sit in just to make sure that accepted
2 protocol is being followed.

3 Q. Does that mean that there's not a specific
4 training that goes into this is how you should
5 evaluate on this rubric?

6 A. No. I mean, there's some subjectivity to it
7 as to what you hear.

8 Q. Like with the PEPE, I remember everybody who
9 had to learn how to do the PEPE, they had to
10 go to classes for PEPE and they had to take
11 tests on PEPE, and they had to see how they
12 evaluated compared to other people who
13 evaluated.

14 Is there anything of that nature done with
15 this process?

16 A. No.

17 Q. Let me show you 1469.

18 A. System-wide math coach specialist, Title I,
19 June 25, 2004. That's 16-L. We had math
20 specialists and reading specialists: Lamecha
21 James, black female; Cathy Simmons, white
22 female; Sheila Helms, white female. That's
23 it. Those were the three.

1 Q. Let me show you Bates 1475.

2 A. District resource/attendance officer, office
3 of student and community services. That's
4 16-M, and that position wasn't filled,
5 although it was -- It was interviewed for, but
6 it was not filled because the funds were not
7 there. The resources were reallocated.

8 Q. Bates 1476.

9 A. Title I school-wide instructional assistants
10 at various school locations. That's 16-N.

11 Q. Was Mr. Lowe qualified for that position?

12 A. That's correct. Now, the vast majority of
13 these -- I called them out a moment ago when I
14 was going through the list. The vast majority
15 of these were already covered in a previous
16 one, and then there were several -- the four
17 at the bottom after 2004. And I'll go over
18 those four if it's okay with you.

19 Q. That's fine. That will work.

20 A. Anissha Officer is a black female, and she's
21 at Harrison. She was at Harrison. Patrick
22 Nelson, black male, at Bellingrath. Lakisha
23 Stokes was a black female at Seth Johnson.

1 Here's Tamara Harvey. She's a black female
2 and she was at McIntyre.

3 Q. Bates number 1492.

4 A. Administrative assistant and assistant
5 principal positions as they become available
6 for the 2004-2005 school term, and we have
7 Denitta Easterling as a -- This must be one
8 particular to Thelma Morris. Yes. That's O,
9 administrative assistant at TS Morris
10 Elementary School, which is 16-O, black
11 female.

12 Q. Bates number 1494.

13 A. All right. This is Sonya Floyd, so this is
14 the administrative assistant at McKee Junior
15 High School, black female. That's 16-P. The
16 same posted notice but 16-P, different school.

17 Q. Okay. 1496.

18 A. Title I school-wide instructional assistant at
19 Southlawn Middle School, and that was Pamela
20 Cloud, white female. And I don't think that
21 one is listed on here. Let's see. Southlawn
22 Middle School.

23 After you requested all of the school-wide

1 for.

2 Q. This is -- I want to just --

3 MR. PATTY: Why don't we go off the
4 record for just a second.

5 (Brief off-the-record discussion
6 followed by a brief recess.)

7 **EXAMINATION**

8 **BY MS. CARTER:**

9 Q. Mr. Barker, I don't know if -- I know you were
10 present for part of Mr. Lowe's deposition, but
11 he testified that Pam Cloud had been hired at
12 Tina Minott's school at Southlawn Middle
13 School because she was made to hire her
14 because Pam Cloud had a lawsuit.

15 Have you or has anyone with Montgomery
16 Public Schools to your knowledge ever
17 instructed Tina Minott that she had to
18 recommend Pam Cloud?

19 A. No. We definitely did not. As a matter of
20 fact in that regard, Tina recommended Pam for
21 that particular position, and later on I
22 inquired of Tina once we received the
23 notification from Mr. Lowe if she even was

1 aware of the fact that Pam Cloud had any type
2 of legal proceeding against the board, and she
3 said her recommendation was made totally
4 oblivious to that. She did not know she had
5 any action.

6 Q. Pam Cloud has sued y'all claiming race
7 discrimination; isn't that correct?

8 A That's correct.

9 Q. Did you block her efforts to get that
10 promotion after she sued you?

11 A No, I did not.

12 Q. Is it a policy of you or the Montgomery Public
13 Schools to provide special consideration to
14 someone simply because they have sued you?

15 A. No, absolutely not.

16 Q. Have you to your knowledge ever undertaken
17 gathering the paperwork or doing the
18 investigative work for an individual when they
19 were trying to get an emergency certification?

20 A. No, I did not. Basically they would have to
21 already come to me with the necessary
22 coursework requirements, and then we would
23 have to be looking for an alternative

1 certification for those individuals. But
2 that's their responsibility to present the
3 coursework requirements to us, the proof of
4 coursework requirements.

5 Q. And y'all help them do the applications and so
6 forth once they've provided that proof to you;
7 is that correct?

8 A. That is correct.

9 Q. And isn't it -- did you ever tell David Sikes
10 or Bobby Abrams that they could not hire
11 Melvin Lowe?

12 A. No.

13 Q. If Melvin Lowe had the coursework for the
14 certification or if he had just simply been
15 certified, would you have recommended that he
16 be hired for those positions?

17 MR. PATTY: Object to the form.

18 A. Gladly, because we had an extreme need in that
19 particular area.

20 Q. There is -- I don't know how we're going to
21 get through this, but there are a lot of jobs
22 that we've talked about in regards to just the
23 list of job postings and successful applicants

1 that you went through today that have in some
2 way or another been referenced in Mr. Lowe's
3 EEOC charge, information he's given the EEOC,
4 his complaint in this lawsuit or in his
5 deposition. And so my question to you is
6 this.

7 You've testified here today that Dr. Owens
8 recommended him for the reading coach position
9 at Paterson; is that correct?

10 A. That's correct.

11 Q. And there was no question in your mind that
12 Dr. Owens wanted him?

13 A That is correct.

14 Q. Is there any other job that you can recall
15 wherein a principal recommended to you or
16 asked you to hire Melvin Lowe wherein that
17 recommendation was not followed?

18 A. No, there is not.

19 Q. When you recommended or were involved in the
20 disciplinary matters of Mr. Lowe in 2002 when
21 he was a teacher at Southlawn, was it a
22 consideration of yours that it was the third
23 year in a row that you had had to deal with

1 Mr. Lowe in regards to allegations and how he
2 handled children?

3 MR. PATTY: Object to the form.

4 A. It was. I knew that I had investigated two
5 previous charges with regard to mishandling of
6 students, and it factored into my decision
7 with regard to the recommendation that I made
8 to the superintendent.

9 Q. After he was non-renewed at the end of that
10 year, he worked in Bullock County a year; is
11 that correct?

12 A. Yes. To my understanding, yes.

13 Q. And then Dr. Carter recommended to the board
14 that he be hired back at Montgomery Public
15 Schools, correct?

16 A. Yes. After school had started in the 2003
17 school year.

18 Q. This might be an unfair question, and I should
19 have warned you about it.

20 Give us an idea of how many people or
21 teachers in the school system you would say,
22 if you can, that have administrative or
23 supervision certifications but are not serving

1 in administrative or supervisory capacities.

2 A. It would be a guess, but there are numerous
3 ones. We generally on the average run
4 anywhere from 30 to 50 applicants through that
5 general screening process each of the last two
6 or three years. So probably a tenth of those
7 actually or maybe as many as 20 percent of
8 them actually get placed, and then the next
9 year we go through the same process. So I
10 would venture to say there are numerous
11 individuals with the certification out there
12 who have not been placed in an
13 administrative-type position.

14 Q. Is there any type of requirement on behalf of
15 Montgomery Public Schools that the person
16 interviewing for a job with the most education
17 must be hired?

18 A. No, there's no such requirement.

19 Q. You've been asked questions today about
20 Denitta Easterling who, if I understand the
21 testimony correctly, served as a summer school
22 principal one summer when her certification
23 was not actually completed until August of

1 Q. Have you ever told anybody that they had to
2 hire a woman or a female in an administrative
3 position at their school or at any position at
4 their school?

5 A. No.

6 Q. Have you ever told anybody that they had to
7 hire a white or black applicant at their
8 school?

9 A. No.

10 Q. When you got word in the summer of 2005 that
11 Mr. Lowe had communicated with Dr. Purcell
12 that he felt like there were some issues of
13 retaliation, did you immediately contact us to
14 seek advice about how to handle that?

15 A. Yes, I did.

16 Q. Did you make any special efforts on behalf of
17 the non-tenured teachers that left Daisy
18 Lawrence with Mr. Lowe -- I think there were
19 two other -- did you make any special requests
20 of principals to hire them or tell principals
21 they had to recommend that they be hired?

22 A. No, I did not. Those individuals were advised
23 that they were to apply for any position in